

PTO Form (Rev 4/2000)

OMB No. 0651-.... (Exp. 08/31/2004)

Request for Reconsideration after Final Action

The table below presents the data as entered.

| Input Field | Entered |
|--|----------------|
| SERIAL NUMBER | 77416487 |
| LAW OFFICE ASSIGNED | LAW OFFICE 113 |
| MARK SECTION (no change) | |
| ARGUMENT(S) | |
| <p>The Examining Attorney refused registration of Applicant's mark, ONE-STEP, based on the marks ONE-STEP (stylized), ONE-STEP SAFETY LANCET, and ONE-STEP (design), U.S. Registration Nos. 2719496, 2969890, and 2922552, respectively, all owned by Medipurpose Pte. Ltd. ("MediPurpose").</p> <p>On May 26, 2009, Applicant filed a consolidated petition to cancel Registration Nos. 2719496, 2969890, and 2922552 under Proceeding Number 92051016 (the "Cancellation Action"). In the meantime, this Application, Serial Number 77/416487 was suspended pending the disposition of the Cancellation Action.</p> <p>Ultimately, Applicant and MediPurpose negotiated and entered into a settlement and coexistence agreement. MediPurpose granted its consent to Applicant to register the subject Application, and Applicant submitted a copy of the Consent Agreement to the Examiner in this matter.</p> <p>On December 4, 2009, the parties filed a stipulated Withdrawal of Petition for Cancellation. The Trademark Trial and Appeal Board dismissed the Cancellation Action without prejudice on December 10, 2009.</p> <p>On February 4, 2010, the Examining Attorney issued a Final Office Action which removed the application from suspension. The Examining Attorney also stated that the submitted Consent Agreement was a "naked consent" and insufficient to overcome the likelihood of confusion refusal under Section 2(d).</p> <p>Applicant respectfully disagrees as follows:</p> <p>Applicant and Medipurpose entered into a settlement agreement with terms much more specific than those listed in the Consent Agreement. Without disclosing the confidential terms of the entire settlement agreement, Applicant hereby informs the Examiner that the parties did in fact delineate limitations of use of one another's marks. Medipurpose uses its marks ONE-STEP (stylized), ONE-STEP SAFETY LANCET, and ONE-STEP (design), U.S. Registration Nos. 2719496, 2969890, and 2922552 primarily for blood sampling lancets while Applicant will use its ONE-STEP mark primarily for blood glucose monitoring systems for the daily tracking of blood glucose levels for diabetics. Further, the Parties agreed to mutual cooperation. If either party becomes aware of actual confusion between the respective marks at any time, that party undertakes to promptly notify the other party and to take prompt action to correct the confusion. The Parties agree to cooperate with each other, and take steps necessary to avoid any likelihood of confusion as to the source of the goods and/or services offered under their respective marks. Should a likelihood of confusion or actual confusion arise, either party learning of the instance of likelihood of confusion or actual confusion will notify</p> | |

the other party as soon as practically possible, and the Parties will cooperate in taking reasonable, appropriate and extrajudicial steps to remedy the situation.

II. Conclusion

Since Medipurpose has granted formal consent to Applicant to register the subject Application, and the consent and settlement agreement are more than just "naked consent," Applicant requests that the application be approved for publication.

Please direct any questions or comments to the undersigned.

SIGNATURE SECTION

| | |
|--------------------------------|---------------------------------------|
| RESPONSE SIGNATURE | /dag/ |
| SIGNATORY'S NAME | Deborah A. Gubernick |
| SIGNATORY'S POSITION | Attorney for Applicant, CA Bar Member |
| DATE SIGNED | 06/30/2010 |
| AUTHORIZED SIGNATORY | YES |
| CONCURRENT APPEAL NOTICE FILED | NO |

FILING INFORMATION SECTION

| | |
|-------------|--|
| SUBMIT DATE | Wed Jun 30 17:43:15 EDT 2010 |
| TEAS STAMP | USPTO/RFR-199.107.43.222- 20100630174315677967-7741 6487-46091f65f417f5ad8408 12cea7725d5afc-N/A-N/A-20 100630173534110849 |

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OMB No. 0651-.... (Exp. 08/31/2004)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. 77416487 has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Examining Attorney refused registration of Applicant's mark, ONE-STEP, based on the marks ONE-STEP (stylized), ONE-STEP SAFETY LANCET, and ONE-STEP (design), U.S. Registration Nos. 2719496, 2969890, and 2922552, respectively, all owned by Medipurpose Pte. Ltd. ("MediPurpose").

On May 26, 2009, Applicant filed a consolidated petition to cancel Registration Nos. 2719496, 2969890, and 2922552 under Proceeding Number 92051016 (the "Cancellation Action"). In the meantime, this Application, Serial Number 77/416487 was suspended pending the disposition of the Cancellation Action.

Ultimately, Applicant and MediPurpose negotiated and entered into a settlement and coexistence agreement. MediPurpose granted its consent to Applicant to register the subject Application, and Applicant submitted a copy of the Consent Agreement to the Examiner in this matter.

On December 4, 2009, the parties filed a stipulated Withdrawal of Petition for Cancellation. The Trademark Trial and Appeal Board dismissed the Cancellation Action without prejudice on December 10, 2009.

On February 4, 2010, the Examining Attorney issued a Final Office Action which removed the application from suspension. The Examining Attorney also stated that the submitted Consent Agreement was a "naked consent" and insufficient to overcome the likelihood of confusion refusal under Section 2(d).

Applicant respectfully disagrees as follows:

Applicant and Medipurpose entered into a settlement agreement with terms much more specific than those listed in the Consent Agreement. Without disclosing the confidential terms of the entire settlement agreement, Applicant hereby informs the Examiner that the parties did in fact delineate limitations of use of one another's marks. Medipurpose uses its marks ONE-STEP (stylized), ONE-STEP SAFETY LANCET, and ONE-STEP (design), U.S. Registration Nos. 2719496, 2969890, and 2922552 primarily for blood sampling lancets while Applicant will use its ONE-STEP mark primarily for blood glucose monitoring systems for the daily tracking of blood glucose levels for diabetics. Further, the Parties agreed to mutual cooperation. If either party becomes aware of actual confusion between the respective marks at any time, that party undertakes to promptly notify the other party and to take prompt action to correct the confusion. The Parties agree to cooperate with each other, and take steps necessary to avoid any likelihood of confusion as to the source of the goods and/or services offered under their respective marks. Should a likelihood of confusion or actual confusion arise, either party learning of the instance of likelihood of confusion or actual confusion will notify the other party as soon as practically possible, and the Parties will cooperate in taking reasonable, appropriate and extrajudicial steps to remedy the situation.

II. Conclusion

Since Medipurpose has granted formal consent to Applicant to register the subject Application, and the consent and settlement agreement are more than just "naked consent," Applicant requests that the application be approved for publication.

Please direct any questions or comments to the undersigned.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /dag/ Date: 06/30/2010

Signatory's Name: Deborah A. Gubernick

Signatory's Position: Attorney for Applicant, CA Bar Member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute

power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77416487

Internet Transmission Date: Wed Jun 30 17:43:15 EDT 2010

TEAS Stamp: USPTO/RFR-199.107.43.222-201006301743156

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